

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

AMOS WESTMORELAND, JR.,

Petitioner,

v.

GLEN JOHNSON
WARDEN, et al.,

Respondent.

CIVIL ACTION FILE
NO. 1:14-CV-1315-TWT

ORDER

This is a pro se habeas corpus action by a state prisoner. It is before the Court on the Report and Recommendation [Doc. 22] of the Magistrate Judge recommending dismissing the Petition as untimely. Although the Petitioner appears to argue that the one year limitations period was tolled while his pro se extraordinary motion for new trial was pending, he does not address the Respondent's claim that this action was filed while the Petitioner's state habeas corpus action was still pending in the Superior Court of Hancock County. Indeed, that is undisputed. Therefore, this action should be dismissed for lack of exhaustion of state court remedies. The Court approves and adopts the Report and Recommendation as the judgment of the Court. The Respondent's Motion to Dismiss [Doc. 11] is GRANTED.

SO ORDERED, this 2 day of December, 2014.

/s/Thomas W. Thrash
THOMAS W. THRASH, JR.
United States District Judge